

The House Committee on Natural Resources and Environment offers the following substitute to SB 442:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water
2 resources, so as to provide a short title; to make legislative findings; to define certain terms;
3 to provide that the Georgia Environmental Facilities Authority shall issue a request for
4 proposal for an engineering study to identify interconnections and redundancies so as to
5 achieve district-wide interconnection within the Metropolitan North Georgia Water Planning
6 District; to provide for a written emergency water supply plan; to provide for the contents
7 of such plan; to provide for coordination of activities; to provide for the completion of such
8 written plan and submission to certain officers; to provide for an exclusion from public
9 disclosure; to change certain provisions relating to a policy statement for comprehensive
10 state-wide water management planning, guiding principles, and requirements of plans; to
11 regulate interbasin and intrabasin transfers of water; to provide an effective date; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Section 2 of this Act shall be known and may be cited as the "Water System Interconnection,
16 Redundancy, and Reliability Act."

17 SECTION 2.

18 Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources,
19 is amended in Article 3, relating to wells and drinking water, by adding a new part to read
20 as follows:

21 "Part 6

22 12-5-200.

23 The General Assembly finds that:

24 (1) Water is an essential resource, the continued provision of which is necessary for the
 25 health, safety, and welfare of the State of Georgia; and

26 (2) It is in the best interests of the State of Georgia for public water systems in the
 27 Metropolitan North Georgia Water Planning District to evaluate their withdrawal,
 28 treatment, and distribution systems and to take proactive measures to reduce the risk of
 29 catastrophic interruptions of water service during emergencies.

30 12-5-201.

31 As used in this part, the term:

32 (1) 'Authority' means the Georgia Environmental Facilities Authority created by Code
 33 Section 50-23-3.

34 (2) 'District' means the Metropolitan North Georgia Water Planning District created by
 35 Code Section 12-5-572.

36 (3) 'Emergency plan' means the written emergency water supply plan developed as
 37 provided in Code Section 12-5-202.

38 (4) 'Essential water needs' means the minimum amount of water needed for residential
 39 and commercial means for food processing, drinking, toilet flushing, fire fighting,
 40 hospital use, and critical asset use and a portion of the system's unaccounted for water.

41 (5) 'Qualified system' means any public water system owned and operated by a city,
 42 county, or water authority in the district.

43 12-5-202.

44 (a) Subject to authorization as provided in subsection (c) of Code Section 12-5-203, not
 45 later than September 1, 2010, the authority shall issue a request for proposal for a thorough
 46 and detailed engineering study developing a district-wide emergency plan covering every
 47 qualified system. Such plan shall identify sufficient emergency water supply sources and
 48 detailed steps required to modify a qualified system's operations to accept or share water
 49 with adjacent water providers within the Metropolitan North Georgia Water Planning
 50 District during emergencies to supply essential water needs.

51 (b) The emergency plan shall evaluate risks and, where feasible, plan for a district-wide
 52 interconnection reliability target for immediate implementation of approximately 35
 53 percent of the annual average daily demand and a long-range district-wide interconnection
 54 reliability planning goal of approximately 65 percent of the annual average daily demand.

55 (c) Such plan shall be based initially on the 2035 water demand forecasted by the district
 56 in 2009 and updated by a revised forecast every five years thereafter and shall include or
 57 be based upon:

- 58 (1) An evaluation of factors affecting water system reliability, including raw and finished
59 water storage, infrastructure conditions, equipment redundancy, and existing
60 interconnection capability;
- 61 (2) Detailed hydraulic studies to determine overall distribution system improvements
62 required to meet projected demands;
- 63 (3) A consideration of various emergency situations, including, without limitation:
- 64 (A) The failure of the largest water treatment facility of a qualified system;
- 65 (B) The full unavailability of major raw water sources due to federal or state
66 government actions;
- 67 (C) The limited or reduced availability of major raw water sources due to federal or
68 state government actions;
- 69 (D) The short-term catastrophic failure of a water distribution system;
- 70 (E) The short-term contamination of a water supply system; and
- 71 (F) The short-term contamination of a raw water source making it unsuitable for use;
72 provided, however, that the results of poor planning or inadequate infrastructure
73 investments by a qualified system shall not constitute an emergency situation.
- 74 (4) An evaluation of the feasibility and cost effectiveness of providing multidirectional
75 flows at existing and future interconnections with a pipe diameter equal to or greater than
76 12 inches;
- 77 (5) A continuously updated inventory of distribution system components, including good
78 system maps;
- 79 (6) Steps that need to be taken to receive water from an adjacent utility within the
80 Metropolitan North Georgia Water Planning District or to provide water to another utility
81 within the district, including required new infrastructure and the location of such
82 infrastructure for both the interconnection reliability target for immediate implementation
83 and the long-range interconnection planning goal;
- 84 (7) Consideration of chemical compatibility, treatment requirements, water quality,
85 operating pressure, and impact on water withdrawal permits;
- 86 (8) A detailed estimate of the costs of implementation for both the interconnection
87 reliability target for immediate implementation and the long-range interconnection
88 planning goal;
- 89 (9) A model intergovernmental agreement for sharing and pricing of water during
90 emergency situations; and
- 91 (10) Creative financing options for implementation of recommended interconnection
92 projects.
- 93 (d) Each qualified system shall coordinate with and assist the authority in the development
94 of the emergency plan.

95 (e) The authority and its consultant shall meet at least once every three months with the
96 district water supply technical coordinating committee to review the progress of the plan.
97 The authority and its consultants shall receive and may incorporate the comments of the
98 committee into the plan.

99 12-5-203.

100 (a) There shall be a technical panel as provided in this subsection. The Governor, the
101 President of the Senate, and the Speaker of the House of Representatives shall each appoint
102 one member of the technical panel, each of whom shall be the director of a public water
103 system located within the district. The Governor, the President of the Senate, and the
104 Speaker of the House of Representatives or such officers' designees shall also serve on the
105 technical panel.

106 (b) The authority and the technical panel shall use the provisions of Code Section 12-5-202
107 as a basis fully to define the water shortage scenarios to be evaluated in the emergency
108 plan. The authority and the technical panel shall also prepare a preliminary scope of work
109 statement for the plan consistent with the defined scenarios and Code Section 12-5-202.

110 (c) The authority shall submit by July 15, 2010, the preliminary scope of work statement
111 to the Governor, the President of the Senate, and the Speaker of the House of
112 Representatives to receive authorization to issue a request for proposals based on such
113 preliminary scope of work statement not later than September 1, 2010.

114 (d) The authority shall modify the preliminary scope of work statement or the preparation
115 of the emergency plan if specific water allocations are provided by final federal courts
116 rulings, state compacts, or other mechanisms. The plan shall be based on such allocations.

117 12-5-204.

118 (a) The authority shall ensure the completion of the emergency plan not later than
119 September 1, 2011, and shall submit the emergency plan to the director of the
120 Environmental Protection Division of the Department of Natural Resources, the director
121 of the Georgia Emergency Management Agency, the Governor, Lieutenant Governor,
122 Speaker of the House of Representatives, and chairpersons of the Senate and House
123 Committees on Natural Resources and Environment and of the Senate and House
124 Committees on Appropriations not later than September 15, 2011.

125 (b) The authority shall update the emergency plan on the same schedule as updates for the
126 district's water supply and water conservation management plans.

127 (c) The costs of producing the emergency plan shall be borne by the authority."

128 **SECTION 3.**

129 Said chapter is further amended by revising subsection (e) of Code Section 12-5-522, relating
 130 to a policy statement for comprehensive state-wide water management planning, guiding
 131 principles, and requirements of plans, as follows:

132 "(e) The division shall make all water withdrawal permitting decisions in accordance with
 133 this chapter, the comprehensive state-wide water management plan that has been approved
 134 or enacted by the General Assembly as provided by this article, and any applicable regional
 135 water development and conservation plan, including, but not limited to, restrictions, ~~if any,~~
 136 on diversion from or reduction of flows in other watercourses in accordance with Code
 137 Section 12-5-522.1. Any political subdivision or local water authority that is not in
 138 compliance with the plan shall be ineligible for state grants or loans for water projects,
 139 except for those projects designed to bring such political subdivision or local water
 140 authority into compliance with the plan."

141 **SECTION 4.**

142 Said chapter is further amended in Article 8, relating to comprehensive state-wide water
 143 management planning, by adding a new Code section to read as follows:

144 "12-5-522.1.

145 (a) As used in this Code section, the term:

146 (1) 'Donor basin' means a river basin from which a withdrawal or diversion of water
 147 occurs in an interbasin transfer.

148 (2) 'Interbasin transfer' means a withdrawal or diversion of water from one river basin
 149 followed by use or return of some or all of that water to a different river basin.

150 (3) 'Intrabasin transfer' means a withdrawal or diversion of water from a point within a
 151 subbasin within a river basin followed by the use and discharge of some portion of that
 152 water into a second subbasin within the same river basin.

153 (4) 'Raw water interbasin transfer' means an interbasin transfer of untreated water for
 154 treatment, use, and disposal in the receiving basin.

155 (5) 'Receiving basin' means a river basin to which all or a portion of water from another
 156 river basin is diverted and returned in an interbasin transfer.

157 (b)(1) Interbasin transfers may be permitted to meet water needs in areas facing
 158 limitations on their water resources, as indicated when the forecast consumption of water
 159 from a specific source approaches the defined consumptive use assessment, as long as the
 160 transfer does not unreasonably foreclose opportunities for water use in the donor basin.

161 (2) An application for a new or modified water withdrawal permit that would involve a
 162 new or increased interbasin transfer of raw water shall not be granted until consumptive
 163 use assessments have been completed for the affected water sources, and water

164 development and conservation plans which identify the need for such transfers have been
165 completed for the affected water planning regions.

166 (3) In evaluating an application for a new or modified water withdrawal permit that
167 would involve a new or increased interbasin transfer, the director shall review and
168 consider:

169 (A) Donor basin considerations, including but not limited to:

170 (i) The quantity of the proposed withdrawal and the stream flow of the donor basin,
171 with special consideration for dry years and low-flow conditions;

172 (ii) The current and reasonably foreseeable future water needs of the donor basin,
173 with special consideration for dry years and low-flow conditions;

174 (iii) Protection of water quality in the donor basin, with special consideration for dry
175 years and low-flow conditions;

176 (iv) Any offsetting increases in flow in the donor basin that may be arranged through
177 permit conditions;

178 (v) The number of downstream river miles from which water will be diverted as a
179 result of the transfer; and

180 (vi) The connection between surface water and ground water in the donor basin and
181 the effect of the proposed transfer on either or both;

182 (B) Receiving basin considerations, including but not limited to:

183 (i) Determination of whether or not the applicant's proposed use is reasonable,
184 including consideration of whether the applicant has implemented water conservation
185 practices and achieved reasonable water conservation goals;

186 (ii) Assessment of the waste-water treatment capacity of the receiving basin;

187 (iii) The supply of water presently available to the receiving basin as well as the
188 estimates of overall current water demand and the reasonable foreseeable future water
189 needs of the receiving basin;

190 (iv) The beneficial impact of any proposed transfer and the demonstrated capability
191 of the applicant to effectively implement its responsibilities under the requested
192 permit;

193 (v) The impact of the proposed transfer on water conservation;

194 (vi) The applicant's efforts to explore all reasonable options for use of reclaimed
195 water and recycling of available resources to meet the needs of the receiving basin;
196 and

197 (vii) Assessment of the adequacy of treatment capacity and current water quality
198 conditions; and

199 (C) Considerations affecting both basins, including but not limited to:

- 200 (i) The economic feasibility, cost effectiveness, and environmental effects of the
201 proposed transfer in relation to alternative sources of water supply;
202 (ii) The cumulative effects of the current and proposed interbasin transfers in each
203 basin;
204 (iii) The requirements of the state and federal agencies with authority related to water
205 resources;
206 (iv) The availability of water for responding to emergencies, including but not limited
207 to drought, in the donor basin and the receiving basin;
208 (v) The effects, whether beneficial or detrimental, on offstream and instream uses;
209 (vi) The quantity, quality, location, and timing of water returned to the donor basin,
210 receiving basin, and basins downstream;
211 (vii) Effects on interstate water use;
212 (viii) The cumulative effect on the donor basin and the receiving basin of any water
213 transfer or consumptive use that is authorized or forecast; and
214 (ix) Such other factors as are reasonably necessary to carry out the purposes of this
215 chapter.
- 216 (4) Interbasin transfers of water that occur in connection with mining, conveying,
217 processing, sale, or shipment of minerals or other products transported for further
218 processing or sale shall be exempt from limitations on interbasin transfers provided by
219 this subsection.
- 220 (c)(1) Intrabasin transfers may continue to be undertaken to meet such practical water
221 needs as are necessary for a water provider to meet the reasonable needs of users within
222 its service area.
- 223 (2) If an application is made for a new or modified water withdrawal permit that would
224 involve a new or increased intrabasin transfer that is to cross the jurisdictional boundaries
225 of more than four counties, it shall not be granted until consumptive use assessments have
226 been completed for the affected water sources, and water development and conservation
227 plans which identify the need for such transfers have been completed for the affected
228 water planning regions.
- 229 (3) Intrabasin transfers of water that occur in connection with mining, conveying,
230 processing, sale, or shipment of minerals or other products transported for further
231 processing or sale shall be exempt from limitations on intrabasin transfers provided by
232 this subsection.
- 233 (d) Nothing in this article shall modify or in any way affect the provisions of subsection
234 (f) of Code Section 12-5-584."

235 **SECTION 5.**

236 This Act shall become effective upon its approval by the Governor or upon its becoming law
237 without such approval.

238 **SECTION 6.**

239 All laws and parts of laws in conflict with this Act are repealed.